

Committee of Thirteen Report

April 10, 2007

The Committee of Thirteen of the Benton County Quorum Court met Tuesday, April 10, 2007 at 5:00 P.M. in the Quorum Court Room, County Administration Building, Third Floor, 215 East Central, Bentonville, Arkansas.

11 JPs Present: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Schindler, Stephenson, Winscott, Wolf, Wozniak

2 Absent: Moore, Summers

Others Present: Richard McComas, Travis Harp, Jim Ecker

Media: Jennifer Turner – Daily Record, Scarlet Simms – Morning News

In the absence of Chair Tim Summers, JP Stephenson made motion to elect JP Wolf as Chair, seconded by JP Hill. Motion passed by unanimous show of hands vote.

PUBLIC COMMENTS:

Don Day stated that he received the agenda on Monday, and that does not allow enough time to prepare constructive suggestions or objections. He said the items on the agenda appear to be routine and have probably already been discussed in committees, but what harm is there in letting citizens feel like they have a chance to participate in local governments. He said that furthermore, it was noted at the last meeting that more citizens would have been in attendance if the meetings were held at 6:00 p.m. or 7:00 p.m. He said that if at least a week's notice is not given to the newspapers when there are controversial items, then it should be continued until adequate notice can be given. He said there is a Public Hearing scheduled tomorrow, and he does not see how the public can be expected to make relevant comments on the nuisance ordinance, when the latest trial version has not been published. He requested the Committee to direct the Planning Board to delete the nuisance ordinance from tomorrow's agenda. He said that regarding meeting procedures, it does not seem proper to try and guess how to respond to agenda items before they are even brought up, or to comment at the end of the meeting after a vote has been taken. He said that other counties allow comment during the discussions, so why won't Benton County, and that it seems to work at some of the other committee meetings where it has been allowed. He urged the committee to show the citizens of Benton County that they are interested in their opinions.

NEW BUSINESS:

1. Letter of Intent to Adopt Resolution Authorizing County Judge to Apply for LLEBG Grant to Provide Counseling for Juvenile Probation

JP Wolf stated that a letter is being requested which will state the intent of the Quorum Court to pass a Resolution to apply for a grant, but the information was not available in time to prepare the letter. JP Stephenson made motion to forward the letter to the April 26, 2007 Quorum Court meeting, seconded by JP Wozniak. JP Wozniak asked if there is any county money involved. JP Wolf stated that there is not. JP Hill stated that he would vote for the motion, but he would

appreciate getting the information before he arrived at the meeting so he can have time to look over it. JP Winscott asked if anyone has seen the letter, and that he is being asked to vote on something that he has not seen. Assistant County Administrator Travis Harp was recognized and stated that the letter of intent is nothing more than authorization for the County Judge to go ahead and apply for the grant. He said that the information will be submitted in the form of a Resolution that has to be passed by the Quorum Court, and the application is due on April 18, 2007, which is before the Quorum Court will convene. He said that if they miss the deadline, they will miss out on the opportunity to apply for approximately \$80,000. JP Wolf asked if this is the Edward Byrne Memorial Grant. Travis Harp stated that it is. JP Wolf stated that Juvenile Probation can use the funds to enhance the Juvenile Drug Court by providing funds for counseling sessions, and as agreed by the Finance Committee, the County Judge will submit a letter of intent to pass a Resolution at the April 26, 2007 Quorum Court meeting, which will be sponsored by JP Summers. JP Winscott asked if there is any additional cost to the county, or if any additional personnel will be required. Travis Harp stated that there is no additional cost, but there is an in kind match which will not require any additional funds from the county. JP Hobbs asked why the letter was not available. JP Wolf stated that this is not the norm, but the figures were not available in time to draft the letter. JP Glass stated that he would like to have the items in hand, particularly if it is something that they are going to vote on. Motion passed by unanimous show of hands vote.

2. Resolution Request – Authorizing County Judge to Apply for Victim’s Justice and Assistance Grant

JP Wolf stated that the same situation exists in that there is no paperwork available for the Resolution authorizing application for this grant. Assistant County Administrator Travis Harp stated that Grants Administrator Kathy Bannister is in Little Rock at a training session which is required to make this grant application. He said that the grant will provide a bilingual advocate for crime victims, and the project numbers are still being finalized. He said the grant will be for up to approximately \$37,000, and does require an in kind match of between 20% to 25%.

JP Wozniak made motion to forward a Resolution to the April 26, 2007 Quorum Court meeting, seconded by JP Stephenson. JP Winscott asked if the county will be required to put up 25% of the cost. Travis Harp stated that an in kind match does not necessarily mean funds, but can be done through the county providing part of the work. JP Glass stated that we are still giving up something that has value from the county budget. Travis Harp stated that is correct, and in this case it will come from the Prosecuting Attorney’s budget. JP Stephenson stated that they do not have the documentation tonight that was provided at the Finance Committee meeting, but in the past they have received grant money for a specific position, and after the grant expires they find they have a position that has proven to be of great value, so the county then has to fund it or eliminate it. He said that based on information received at the Finance Committee meeting, he would be voting in favor of items 1 through 4 on the agenda, and he did not see why they did not receive that same information tonight.

JP Winscott stated that it appears that if they buy in to this, they will be adding headcount, or another office with additional headcount and equipment. Travis Harp stated that the grant will provide all of that as long as it is available, but once the grant dries up they will have to make the choice to keep the position or not. Comptroller Richard McComas was recognized and stated that the current Victim’s Witness Program receives a transfer from County General, so county funds are involved. He said the Prosecuting Attorney’s office feels they have enough money in

their budget to cover the match this year. He said that when the grant runs out all of the cost will come from the county. He added that all the Resolution will do is state that they are applying for the grant, and if it is awarded they will still need to go through the process of deciding if they want to accept it, and then appropriate the funds. JP Wolf pointed out that they will still have the opportunity to make the decision to apply for the grant at the Quorum Court meeting.

JP Glass stated that they will likely receive the grant, and end up with additional people on the payroll, and before long it will add up to a lot of money. He said he appreciates that the Finance Committee went over it in depth, but since they are voting on it as a whole, they should have a lot more information in hand. He said he hates to think that down the road they would have to let someone go who has been in the position, and while it would be easy to say that this is a freebie, it is not. JP Glass stated that he appreciated JP Stephenson's information, but he would like to have the information that he used to make his evaluation. Richard McComas stated that they will have that information when they find out if they have received the grant and have to make the decision whether or not to accept it. JP Winscott asked if they are awarded the grant, and decide not to exercise it, will that reflect negatively on the county when we apply for other grants. He also asked where they are going to put the person, and that they will probably need a desk, equipment, and a secretary. JP Hubbard asked when the application is due. JP Wolf stated that the application is due at the end of April. JP Hubbard stated that he would almost like to make a motion to take it off the agenda just to make a statement that next time they want the information ahead of time. Richard McComas stated that they are going to see this happen all the time, because these grants opportunities sometimes occur at the last minute. JP Hubbard stated that it happens all of the time, and they do not get the agenda ahead of time. He said it may get to the point that the Committee of 13 may need to put their foot down and start saying "no" unless we get a good plan presented to us, instead of just coming and asking for a vote and trying to push something through. Motion passed by unanimous show of hands vote.

3. Approval of Road Department Equipment Purchase

Comptroller Richard McComas stated that there is no paperwork involved. He said the Road Department made an equipment purchase that in the 2007 budget for \$71,000 less than anticipated. He said they are requesting to purchase additional winter equipment with \$39,000 of the funds left over, and would like permission to spend the remaining \$32,000 at their discretion for equipment purchases that may arise later in the year. He said that it will not require a budget adjustment, just the Quorum Court's okay. JP Stephenson asked what equipment is being asked for. Richard McComas stated that they want to purchase a backhoe trailer and salt and sand spreading equipment. JP Stephenson stated that he is aware that the Finance Committee forwarded this to the Committee of 13, and he would like to make motion that the Road Department be allowed to purchase the equipment requested for a total of approximately \$39,000, but that the remainder not be spent on a discretionary basis without coming back to the Quorum Court for approval, seconded by JP Glass. JP Harrison asked why they do not want to allow the Road Department to spend the remaining \$39,000 at their discretion. JP Stephenson stated that he had difficulty in saying "Here's \$32,000, spend it however you please." JP Harrison stated that he agreed, but it has to be spent for equipment. Richard McComas stated that they will keep the Quorum Court informed if any additional purchases are made. Motion passed by unanimous show of hands vote.

4. 2007 Budget Adjustments

Comptroller Richard McComas stated that they make budget adjustments throughout the year, but do not actually prepare an ordinance until the end of the year, and there are three adjustments on the agenda tonight. He said that the Sheriff's Department wants to purchase a Live Scan Digital Fingerprint Station for approximately \$45,000, and the money will come from the Social Security Fund. He explained the county notifies the Social Security Administration when someone is incarcerated, because that person is no longer eligible to receive Social Security benefits, and the county receives a fee from Social Security for each notification. He said they expect to receive approximately \$43,000 this year, and the remainder of the cost will come from the Radio Communications Fund.

Richard McComas stated that 9-1-1 Administration has to replace one of their servers at a cost of approximately \$6,000. He said it will have to come from Capital since it is over \$5,000, and they have to have approval from the Quorum Court for purchases from the Capital Account. He added that they will take the money from Small Tools and Equipment.

Richard McComas stated that the third item is the payment of 2006 Unemployment Taxes. He said the county started using the reimbursement method to pay unemployment taxes about 5 years ago instead of paying a percentage of our salaries to an unemployment fund. He said they reimburse the State for money actually paid out in unemployment claims, and save approximately \$150,000 to \$200,000 a year by doing it this way. JP Winscott asked if it would not be better to go ahead and put an estimate in the budget every year and miss it by 20% instead of having to come up with 100% of the cost. Richard McComas stated that the problem is that it comes from several different departments, and the county has employed the practice of not budgeting the unknown, such as equipment replacement. He said that unknown expenses have come from mandatory reserves for about 5 years, and that has worked well. JP Glass asked how much interest the county makes by not paying in the percentage, and stated that there must be a way to estimate the cost since the 2006 payment is so close to the 2005 payment. Richard McComas stated that it varies from year to year, and it is a coincidence that the last two years' amounts were so close.

JP Hobbs made motion to approve the budget adjustments and to include them in the 2007 Budget Adjustment Ordinance, seconded by JP Hill. Richard McComas stated that normally they have not had to appropriate any additional money to cover the unemployment taxes, but have had enough savings in unappropriated funds. Motion passed by unanimous show of hands vote.

5. Discussion: Companies Doing Business With Benton County to Provide Affidavit Stating All of Its Employees are Legal Residents

JP Schindler distributed copies of a statement explaining the reasons for adopting a resolution requiring all suppliers of goods and services doing business with Benton County to provide assurance that all of its employees are legal residents because it is wrong to use taxpayer money to support an illegal practice. He also distributed copies of sample ordinances from cities in Pennsylvania and Arizona, and two newspaper articles. He stated that this subject has been discussed with the County Judge and County Attorney on a variety of occasions in recent weeks, and then read the prepared statement. JP Schindler stated that the ordinances from the two cities are too strong, and they are only seeking guidance for Benton County, not the public or industry in the county. He said that the County Attorney could draft an ordinance for consideration at the next Quorum Court meeting, which they will all receive well in advance of the meeting, along

with the affidavit that will be required of the vendors. He said they are only concerned that the employees be legal residents, not citizens, and there are a number of ways to be in the country legally. He said it is his hope that if Benton County takes the lead, other municipalities, school districts, and businesses will follow suit.

JP Hill stated that this is a political hot potato, and asked if it would be constitutional. JP Schindler stated that we are not passing a law, only disciplining ourselves. JP Glass asked if the ordinance would have any ramifications for those not complying. JP Schindler stated that it is not an ordinance, and once it is in place if we find out a company has lied to us, we can stop doing business with them. He said he is sure they will eventually find out, because disgruntled employees are an excellent source of information.

JP Stephenson stated that he is concerned with the direction in which they are headed. He said an employer can check documents and still unknowingly employ an illegal resident. He said there are Federal agencies that are responsible for policing immigrants, and if the Resolution says "to the best of our knowledge", the employer will just say, "I didn't know". He said that another concern is that the Quorum Court is comprised of 13 Justices of the Peace, and actions should evolve from the entire body, and not a single JP. He said he is concerned that they have for many months now been trying to get a nuisance abatement ordinance enacted, and apparently there has been a lack of time on the part of the County Attorney to review it as it should have been. He said he now finds that the County Attorney's time has been at least partially directed at drafting a letter and Resolution that, from a personal standpoint, they have no business going into the area.

JP Schindler stated that the Committee of 13 is the body of the whole, and is the only appropriate committee at which to address this issue. JP Wolf stated that they were under the impression that JP Schindler wanted to send the resolution to the Quorum Court by himself, and was not asking the Committee of 13 to send it to the Quorum Court. JP Schindler stated that was not his intention, and made motion that the Committee of 13 direct the County Attorney to prepare the resolution and then submit it to the Quorum Court for final action, seconded by JP Winscott. JP Wozniak stated that it will need to come back to the Committee of 13 before it goes to the Quorum Court, so they can see what has been written. He said this issue is of a different stature than the other items that they have discussed tonight, so it needs to come back before going to the Quorum Court. JP Schindler stated that was correct and that he would like to modify his motion to that effect. JP Hubbard stated that he appreciates all of the literature, but does not like getting it the day of the meeting and then being asked to vote to send it on to the Quorum Court. JP Schindler stated that he is not asking for a vote to send it on, but is asking for a vote to direct the County Attorney to prepare a resolution for their consideration, and it will come back to the Committee of 13.

Comptroller Richard McComas was recognized and asked if it will require the Accounting Department to send letters to all of the vendors who do business with Benton County. JP Schindler stated that they could send one only to those who sign contracts. Assistant County Administrator Travis Harp stated that it could be made a part of the bid sheets that are sent out, and the company could then decide if they want to bid on the project or not. JP Wozniak stated that anytime money is spent for a good or service, there is a contract. He said the county does business with thousands of vendors. JP Hill stated that illegals currently have a large financial impact on the economy, and this could cause a backlash if these people form a union and take their money entirely out of Benton County and spend it elsewhere. JP Schindler stated that

money processors can tell you that that there are already millions of dollars leaving the county, the state, and the country.

JP Wolf asked to hear the motion again. Deputy Clerk Betsy Deaton read the motion again. JP Glass stated that there is a healthy debate still going on, so they may be premature in sending it to the County Attorney. He asked if they are really prepared to give her enough specifications to draft the Resolution. JP Hobbs stated that her preference would be to table it until they have more specifics and she does not think the Committee of 13 is prepared to give the specifics to the County Attorney. She suggested tabling it or referring it to the Finance Committee. JP Schindler stated that this will be a small resolution, and the County Attorney is quite capable of drafting whatever is necessary. He said they are simply saying that Benton County is not going to use taxpayer money to support an illegal operation.

JP Stephenson asked if a motion to table supercedes the motion on the table. JP Wolf stated she believes it does. JP Stephenson made motion to table the discussion until the next Committee of 13 meeting, seconded by JP Hill. JP Winscott asked what will happen between now and the next Committee of 13 meeting. JP Glass stated they will be better prepared to deal with the subject matter, and if someone is signing an affidavit, there has to be some ramification. He said he preferred JP Hobbs recommendation to refer the matter to the Finance Committee. JP Stephenson stated they will have time to reflect on it and read the material that was handed out. JP Glass stated that he would like some information on the number of vendors that would be involved. Richard McComas stated that he will provide that information. JP Hobbs stated that it would make more sense to have fewer people meet with Richard McComas, and maybe the County Judge, to decide how they are going to enact the resolution. She said that if the Committee gets new information next month, they still will not be ready to forward it to the Quorum Court. JP Stephenson stated that he is fearful that, much as happened tonight and the documentation for items 1 through 4 was at the Finance Committee meeting, and he naively assumed that it would be here tonight so he left his at home, and even if he had brought his, it would not have benefited the rest of them, so if they go to another committee, they will still have to come back after that committee meets, which is not a bad idea, but he is concerned that they will come back and have to have another educational session. He said he is here to state that he is not going to vote on another item that is submitted to them like they were submitted tonight, and he will automatically vote no.

JP Wolf stated that she was on the Quorum Court when the Committee of 13 was established, and it was for the purpose of holding discussion at this meeting before it went to the Quorum Court. She said that this issue is unlike a grant application, where it is a yes or no issue. She said that each person's individual opinion will most likely influence their vote so that is why they have discussion at the Committee of 13.

Comptroller Richard McComas was recognized and stated that after each Finance Committee meeting, all of the agenda materials are placed in the boxes of each JP who does not attend the Finance Committee meeting. He suggested that they bring those packets to the Committee of 13 meetings or it will cause a lot of reproduction of documents. JP Wolf stated that there is a motion on the floor that needs to be voted on. JP Winscott asked if the vendors with contracts can be separated from other vendors. Richard McComas stated that they do not maintain a separate list. Motion passed by unanimous show of hands vote.

OTHER BUSINESS:JP Wozniak stated that the revised version of the proposed nuisance ordinance did not come to this Committee of 13 meeting as originally planned, but it is listed on

the agenda for the April 11, 2007 Planning Board meeting. He said he will recommend that it be dropped from the Planning Board agenda, and he will schedule a meeting 7 to 10 days after they receive the ordinance back from the County Attorney. He said they will decide at the next Environmental Committee meeting what the next step will be.

JP Winscott stated that he is very upset that he does not get information until 24 hours before they meet, and he would like to see a guideline of operation adopted that anyone who has an agenda item is required to submit it to the County Clerk's Office by noon on Thursday before the Committee of 13 meeting. He said he had two phone calls this week asking where the agenda was, and checked the computer as late as Saturday night and could not find it until Monday afternoon. He said this is poor business practice, and he would like know if he needs to propose a resolution to get this procedure changed. He said that he is almost of the opinion that he will not vote on anything that he does not have information on prior to the meeting, so that he has an opportunity to call people and talk to them, and find out if he has questions, and be informed when he comes to the meeting to talk about something. Deputy Clerk Betsy Deaton explained that the procedure in place at this time is that the deadline for submission of items to the Committee of 13 agenda is noon on Monday preceding the Committee of Thirteen meeting, and if it is in the *Code of Ordinances*, it will require an ordinance to change it. JP Winscott asked if they should ask the County Clerk to draft an ordinance setting the cutoff for noon on Thursday. JP Hubbard stated that they could just have a policy that if it is not on the agenda by noon Thursday, they will not vote on the item. JP Wolf stated that they should be careful not to turn the Committee of 13 into the Quorum Court. JP Glass stated that they all have the option just not to vote on it, so they do not need to move the timeline, and he agrees with JP Stephenson, and will not vote on something if he does not have the information until the day of the meeting. JP Wolf stated that, again, they need to determine that this is not a Quorum Court meeting, it is a work session. JP Winscott stated that "work" implies tools and information. JP Stephenson stated that he has no objections to moving the deadline back to Thursday, but this is a battle he has been fighting for 7 years. He said the ultimate solution is for enough of them say they are not going to vote on something if they do not have it. JP Stephenson stated that he would vote for moving the deadline. JP Winscott stated that he would make a motion to do so. Deputy Clerk Betsy Deaton stated that there could be a problem with some appropriation ordinances which are forwarded from the Finance Committee on Tuesday being ready by Thursday at noon. JP Wozniak stated that the solution is to just carry it over to the next month. JP Harrison stated that a discussion with the County Clerk about how the system works would be informative. Comptroller Richard McComas was recognized, and stated that the whole reason they set up the committee structure in its current form was in order to have one week between the Finance Committee and the Committee of 13, with the Quorum Court meeting two weeks later. He said this has been discussed every year, and this is the best solution that they have found. He said they will start mailing the Finance Committee packets to those JPs not attending the Finance Committee meeting, so they will have that information well ahead of the Committee of Thirteen meeting.

ANNOUNCEMENTS:

JP Winscott announced that he and his wife celebrated their 50th Wedding Anniversary on April 5th.

After motion and second the meeting was adjourned at 6:15 p.m.